IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 24.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.1329 of 2001

1.The District Registrar,
Periyakulam,
Madurai District.

2.The Sub-Registrar,
Thevaram,
Madurai District. ... Appellants

Vs.

V.R.Senthilnathan .. Respondent

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 19.02.1998 made in W.P.No.6028 of 1994, Petition presented to this Court under Article 226 of the constitution of India, to issue a writ of certiorari, calling for the records of the first respondent in Na.KaNo.6422/A1.93, and quash the order made therein dated 22/12/1993.

For Appellants : Mr.K.Elango,
Special Government Pleader

For respondent : Mr.S.K.Rakhunathan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order dated 19.02.1998 made in W.P.No.6028 of 1994, in and by which, the learned single Judge quashed the order of the District Registrar, Periyakularm, Madurai District, dated 22.12.1993 and issued certain direction to the Government.

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2. Heard the learned Special Government Pleader for the appellants as well as the learned counsel for the respondent.

3. It is not in dispute that the impugned proceeding was passed by the first respondent-District Registrar, Periyakulam, Madurai District, on 22.12.1993. It is the grievance of the respondent herein/writ petitioner that first of all, there is no under valuation. Secondly, the first respondent is not the competent authority to go into the said aspect. According to him, if the registering authority satisfies that the true market value has not been set forth in the instrument, after registering such instrument, he is free to refer the same to the Collector for determination of the market value of such property under Section
47-A of the Indian Stamp Act, 1899 (hereinafter referred to as "the Act").

4. The learned Special Government Pleader fairly stated that they are mainly aggrieved of the observation and certain directions of the learned single Judge. We have verified the reasoning of the learned single Judge in para 7 of his order. As rightly pointed out by the learned Special Government Pleader as well as the appellants/respondents even if the registering officer finds that the document is under valued, he has to resort to the procedure under Section 47-A of the Act by referring the same to the Collector. It is needless to mention that he has to satisfy/fulfil the mandates provided therein. After reference, it is for the Collector to go into the same as provided in Section 47-A of the Act. Accordingly, we hold that the proceedings of the first respondent viz., the District Registrar, Periyakulam dated 22.12.1993 cannot be sustained. The observation and direction of the learned Judge are vacated.

5. With the above clarification, we dispose of the above writ appeal. No costs.

raa

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

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To

1.The District Registrar,
Periyakulam,
Madurai District.

2.The Sub-Registrar,
Thevaram,
Madurai District.

+ One cc to the Govt Pleader SR.No 57582.

+ One cc to Mr. S.K. Rakhunathan Advocatae SR 57647.

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